

STATE OF MICHIGAN
COURT OF APPEALS

JODY MAHAFFEY, as Next Friend of Taylor R.
Peterson, a Minor,

UNPUBLISHED
February 27, 2007

Plaintiff-Appellant,

v

JENNIFER NICHOLE RAUCH and JACK
RAUCH,

No. 271054
Marquette Circuit Court
LC No. 05-042761-NI

Defendant-Appellee.

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

MEMORANDUM.

Plaintiff appeals as of right from an order of the circuit court granting defendants' motion for summary disposition. This case stems from a traffic accident in which plaintiff's minor daughter, Taylor, was injured. We affirm. This case is being decided without oral argument under MCR 7.214(E).

Under the no-fault act, MCL 500.3101 *et seq.*, "[a] person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement." MCL 500.3135(1). A serious impairment of body function is defined as "an objectively manifested impairment of an important body function that affects a person's general ability to lead his or her normal life." MCL 500.3135(7). For an impairment to be objectively manifested, "a plaintiff's injury must be capable of objective verification by a qualified medical person either because the injury is visually apparent or because it is capable of detection through the use of medical testing." *Netter v Bowman*, 272 Mich App 289, 305; 725 NW2d 353 (2006). Here, there is no dispute over the objective manifestation of the injury. Moreover, the casting of Taylor's arm and leg impaired an important body function. See *Kern v Blethen-Coluni*, 240 Mich App 333, 340-341; 612 NW2d 838 (2000).

However, the record does not support the conclusion that Taylor's impairment has affected her general ability to lead her normal life. In determining whether an injury constitutes impairment of an important body function, the court should consider the totality of the circumstances, including the extent of the injury, the treatment required, the duration of the disability, the extent of residual impairment, and the prognosis for eventual recovery. *Kreiner v Fischer*, 471 Mich 109, 133-134; 683 NW2d 611 (2004). Here, plaintiff was placed in casts

immobilizing her arm and leg for approximately one month. Following removal of the casts, Taylor's activities were not medically restricted. While she initially had some difficulty walking following removal of the casts, there is no evidence that Taylor has suffered any residual impairment or that her growth pattern has been negatively impacted. Indeed, plaintiff testified that her daughter has no continuing physical disability. Plaintiff also testified that Taylor has resumed the "tomboy" activities she engaged in before the accident. Accordingly, summary disposition was properly granted in favor of defendants.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Jane E. Markey

/s/ Kurtis T. Wilder